

After reviewing the record and considering the arguments, the Appeals Board concludes that the Order by the ALJ should be affirmed. The evidence establishes that claimant suffered injury in the course of his employment on January 20, 1997. Respondent provided medical treatment and the last date of that treatment was February 17, 1997. Respondent did not file an Employer's Report of Accident and claimant, therefore, had one year within which to file a written claim. K.S.A. 44-557. The claimant testified that he signed an accident report and he identifies Form A, Employer's Report of Accident, a document which does not indicate it is a claim. Claimant testified that when he signed the document he was not intending to make a claim for workers compensation at that time. He was intending to notify the company that he was injured. That testimony conflicts with his later testimony that an employer representative advised him he was making a claim. The only copy of the form in evidence in this case is one not signed by the claimant. Based upon the above and foregoing factors, the Appeals Board agrees with and affirms

the finding by the ALJ. Claimant has failed to establish in the record produced to date that he served timely written claim.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Nelsonna Potts Barnes on August 7, 1998, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 1998.

BOARD MEMBER

c: William L. Phalen, Pittsburg, KS
Ronald J. Laskowski, Topeka, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director